IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16321 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MEHSANA DISTRICT CENTRAL CO-OPBANK LTD. & 1 - Petitioner(s)

Versus

STATE OF GUJARAT THRO.SECRETARY & 1 - Respondent(s)

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Appearance :
MR BS PATEL for Petitioner(s) : 1 - 2.MRS RANJAN B PATEL for Petitioner(s) : 1 - 2.
MS ARCHANA RAWAL, AGP. for Respondent(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1,
MR PRAKASH K JANI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 07/11/2006

ORAL JUDGMENT

1 For the reasons that follow hereinafter the petition is taken up for final hearing and disposal today with the consent of the learned Advocates appearing for the respective parties. **Rule**. Ms. Archana Rawal, learned Assistant Government Pleader appearing for respondent No.1 and Mr.P.K.Jani, learned Advocate appearing for respondent No.2 are directed to waive service.

2 This petition challenges order dated 26.07.2006 made by the State Government granting Revision Petition No.62 of 2006 which was filed by respondent No.2. The bare facts necessary are that the petitioner – Cooperative Bank was granted category 'D' in the audit carried out by the Special Auditor, Cooperative Societies, Mehsana for the Financial Year 1.4.2004 to 31.3.2005. Against the said categorization the petitioner bank preferred an Appeal before the Joint Registrar being Appeal No. 16 of 2005 which came to be decided on 29.4.2006 whereunder the category was modified from category 'D' to category 'C'. Against the said order of the Joint Registrar respondent No.2 herein has preferred the aforesaid revision petition being Revision Petition No. 62 of 2006 which came to be allowed vide impugned order.

3 Mr.B.S.Patel, learned Advocate for the petitioner has made a grievance that despite categorical plea before the Revisional

Authority as to maintainability of the revision petition and the jurisdiction of the authority to entertain the revision petition, the Revisional Authority has not dealt with the said objection and decided the revision petition only on merits, namely whether the petitioner bank's audit should be categorized in category 'D' or category 'C'.

4 Having heard Ms.Archana Rawal, learned Assistant Government Pleader appearing on behalf of respondent No.1- State and Mr.P.K.Jani, learned Advocate appearing on behalf of respondent No.2, it is apparent on going through the impugned order that the contention regarding maintainability of the revision petition and the jurisdiction of the authority to entertain the petition though specifically raised before the authority have not been dealt with by the authority. In the aforesaid circumstances, without recording any opinion as to merits of the issue the impugned order is required to be quashed and set aside and the revision petition is restored to the file of the Revisional Authority with a direction that the Revisional Authority shall after hearing the parties, in the first instance, deal with and decide the contention regarding maintainability of the revision petition as well as the jurisdiction of the authority to entertain the revision petition.

5 Accordingly, the impugned order dated 26.07.2006 made by respondent No.1 is hereby quashed and set aside. Revision Peition No. 62 of 2006 filed by respondent No.2 herein stands restored to the file of the Revisional Authority. The Revisional Authority is directed to hear the parties on the issue of maintainability of the

revision petition and jurisdiction of the Revisional Authority to entertain the revision petition and decide the same in the first instance, namely before deciding the merits of the controversy.

6 The petition is allowed accordingly. Rule made absolute. There shall be no order as to costs.

Sd/-
(D.A.Mehta, J.)

m.m.bhatt